

SETTLEMENT AGREEMENT

AND LICENSE

This agreement ("Agreement") is made and entered into this 1st day of February 2005 (hereinafter referred to as "Effective Date"), by and between the County of Los Angeles, for its Sheriff's Department, a government agency organized under the laws of the State of California, having a principal business address at 4700 Ramona Boulevard, Monterey Park, California 91754-2169 (hereinafter referred to as "COUNTY") and Motormax Toy Factory Ltd., D.B.A. RBI Toys, Inc., a California corporation, having a principal business address at 1460 S. Archibald Avenue, Ontario, California 91761-7626 (hereinafter referred to as "MOTORMAX").

This Agreement is being entered into in view of the facts and under the circumstances recited below. The parties hereto deem each such fact and circumstance to be material.

WHEREAS, COUNTY is the owner of the two trademarks, service marks, and logos depicted in "**Exhibit A**" (Sheriff's star and logo "*A Tradition of Service*") attached hereto and by this reference incorporated into and made a part hereof (hereinafter referred to as the "MARKS") and has used the MARKS since as early as 1947 in connection with police and civil protection services and subsequently with a wide variety of other goods and services;

WHEREAS, COUNTY claims ownership of the Federal Trademark Registration for the two MARKS, namely, for the Sheriff's star mark, U.S. Registration No. 2,627,597, and pending application for registration of the star mark, namely, U.S. Application Serial Nos. 76/529,552; and for the mark "*A Tradition of Service*", U.S. Registration No. 2896823 and pending application No. 76/529,314;

WHEREAS, a dispute has arisen between COUNTY and MOTORMAX regarding MOTORMAX's manufacture and sale of certain die-cast model vehicles (1:18 and 1:24)

bearing the MARKS (hereinafter referred to as "Disputed Goods") on and in connection with the sale of the Disputed Goods depicted in "**Exhibit B**" (photos of the two die-cast models);

WHEREAS, MOTORMAX had 4,200 units of the 1:18 model and 2,000 units of the 1:24 model manufactured, and represents and warrants that no additional units have or will be manufactured;

WHEREAS, MOTORMAX has sold and/or shipped a total of 2,250 units of the 1:18 model and 1,608 units of the 1:24 model to retailers throughout the world;

WHEREAS, MOTORMAX possesses and/or controls 1,950 units of the 1:18 model and 392 of the 1:24 model (hereafter referred to as the "Remaining Disputed Goods");

WHEREAS, the parties hereto are desirous of settling all controversy surrounding the unauthorized use of the MARKS fully and finally;

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and in further consideration of the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. MOTORMAX shall completely discontinue all use of the MARKS, and all other formatives or composite marks that include the MARKS, and any term or mark confusingly similar to the MARKS, in the United States and in all countries and territories throughout the world, as a trademark, service mark, logo, or any other use in connection with any goods, services, or businesses, of any kind whatsoever, except that MOTORMAX may sell the 1950 remaining units of the 1:18 model, under the terms of the license below.

2. MOTORMAX shall not register or cause to be registered the MARKS or any term or mark confusingly similar thereto, in any jurisdiction anywhere in the world which registers trademarks, service marks, or logos. MOTORMAX shall abandon any pending applications which it may have heretofore filed in any jurisdiction for registration of the

MARKS, or any term or mark confusingly similar thereto.

3. MOTORMAX shall pay COUNTY six thousand, four hundred fifteen dollars and twenty-five cents (\$6,415.25) as a lump sum payment within ten (10) business days immediately following the Effective Date. This lump sum payment is composed of the profits made on the Disputed Goods, a royalty for the license for MOTORMAX to sell the remaining inventory of the 1:18 models as discussed in paragraph four (4) below and attorneys' fees incurred by COUNTY.

4. COUNTY hereby grants to MOTORMAX a nonexclusive license (hereinafter referred to as the "License"), to use the MARKS for the sole purpose of selling off the remaining 1950 1:18 models, under these terms and conditions:

- a. Before selling or transferring any of the 1:18 models, MOTORMAX shall remove the word "police" from the rear side panel;
- b. Before selling or transferring any of the 1:18 models, MOTORMAX will include this text on the packaging of the 1:18 model:

"The Los Angeles County Sheriff's Department (LASD) name, logos and slogans are the exclusive property of the LASD and cannot be reproduced or used without express written permission. This product is produced under license from the County of Los Angeles Sheriff's Department. All rights reserved."
- c. The License granted by COUNTY is nonexclusive, non-transferable, and subject to the standards of quality on the next paragraph;
- d. MOTORMAX will make the modifications to all the remaining 1:18 models and send a modified sample to the COUNTY for approval before any models are transferred or sold. The modified sample should be mailed to: Los Angeles County Sheriff's Department Legal Advisory Unit, Attention: Dalila Corral, 4700 Ramona Boulevard, 2nd Floor,



Monterey Park, CA 91754-2169. Once COUNTY approves the modified vehicle, to be completed within ten (10) business days, and MOTORMAX represents in writing that it has made the modifications in paragraph four (a) and (b) noted above to all the 1:18 models, it may sell or transfer all these models.

5. MOTORMAX shall provide to Sheriff's Youth Foundation, a California nonprofit corporation, within fifteen (15) days of the execution of this agreement, all 392 1:24 scale die-cast remaining units to the following address:

Sheriffs' Youth Foundation
Bondell Golden, Executive Director
4700 Ramona Boulevard, 4th Floor
Monterey Park, CA 91754-2169

6. Release: Except for the obligations imposed on MOTORMAX herein, COUNTY, on behalf of itself and its agents, attorneys, representatives, current employees, former employees, heirs, successors and assigns, agrees, promises, releases and forever discharges MOTORMAX and its respective successors, customers, assigns, agents, current employees, former employees, officers, shareholders, directors, attorneys, representatives, parent corporations, affiliated corporations and subsidiary corporations, from liability from any and all claims, controversies, actions, causes of actions, demands, torts, damages, costs, attorneys' fees, moneys due on account, obligations, judgments or liabilities of any kind whatsoever in law or equity, arising out of agreement or imposed by statute, common law or otherwise, from the beginning of time to the date this Agreement is signed by COUNTY, whether or not now known, anticipated, unanticipated, suspected or claimed, fixed or contingent, whether yet accrued or not and whether damage has resulted from such or not, that could have been asserted regarding the Disputed Goods.

7. Governing Law: This Agreement shall be governed by and construed in



accordance with the laws of the State of California, United States of America, without reference to conflict or choice of laws principles.

8. Entire Agreement; Modification: This Agreement contains the entire agreement of the parties and there are no representations, warranties, inducements, promises, covenants, agreements or undertakings between the parties other than those set forth herein or which may be subsequently entered into and recorded in writing executed by all parties. Any prior written or oral and any contemporaneous oral negotiations, representations, warranties, inducements, promises, covenants, agreements or undertakings concerning the subject matter of this Agreement not expressly set forth herein are of no force or effect. No amendments to this Agreement shall be binding unless such amendments shall be in writing and duly executed by both of the Parties hereto.

9. Successors and Assigns; No Third-Party Beneficiaries: This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective legal representatives and permitted successors and assigns. The terms of this Agreement shall be for the benefit of the Parties hereto and their respective successors and permitted assigns only, and shall not inure to the benefit of any other person or entity.

10. Severability: If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable after all appeals have either been exhausted or after the time for any appeals to be taken has expired, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

11. Disputes; Consent to Jurisdiction: With reference to any controversy, dispute or claim arising out of, in connection with, or in relation to the interpretation, performance or breach of this Agreement or otherwise arising out of the execution hereof, including any claim

based on contract, tort or statute, the Parties agree to undertake a good faith effort to resolve or otherwise settle such controversy, dispute or claim. If such an undertaking fails, the controversy, dispute or claim shall be adjudicated in, and each of the Parties hereto consents to the jurisdiction of, any state or federal court located within the County of Los Angeles, State of California. In this connection, each of the parties waives any objection which it may have based on improper venue or forum non-convenient to the conduct of any such action or proceeding in any such court and waives personal service of any and all process upon it, and consents to all such service of process made in accordance with the applicable law. Nothing contained in this paragraph shall affect the right of either party to serve legal process on the other party in any other manner permitted by law.

12. Irreparable Harm and Injunctive Relief: The parties agree that any sale by MOTORMAX of the Remaining U.S. Disputed Goods outside of the terms of the Agreement would constitute irreparable harm to COUNTY. The parties further agree that in the event that COUNTY brings an application for preliminary or permanent injunctive relief based on such alleged sales, MOTORMAX may not challenge such application on the ground that there is no irreparable harm but may challenge such application on any other basis.

13. Attorneys' Fees to Prevailing Party: In the event a controversy, dispute or claim is adjudicated as herein above provided, the Parties agree that the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs of suit.

14. Construction: This Agreement shall, in all cases, be construed simply, according to its fair meaning, and not strictly for or against either party. All Paragraph headings contained in this Agreement are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. This Agreement shall not be construed against either party because it was drafted by the attorney representing such party.

d.

15. Advice of Legal Counsel: COUNTY and MOTORMAX hereby represent and warrant that they (i) have read this Agreement; (ii) have had the opportunity to seek the advice of counsel of their own choosing; and, (iii) fully understand the legal significance of said terms and conditions.

16. Counterparts: This Agreement may be executed in any number of identical counterparts, each of which shall be deemed an original for all purposes, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

"COUNTY"



County of Los Angeles
for its Sheriff's Department

APPROVED AS TO FORM:

RAYMOND G. FORINER, JR.
County Counsel

By

Deputy

By:

Name:

GLORIA MOLINA

Title:

CHAIR, BOARD OF SUPERVISORS

Date:

MAR - 1 2005

Authorized by the County of Los Angeles
Board of Supervisors on December 14, 2004
Closed Session Agenda, Item no. 6.

"MOTORMAX"

Motormax Toy Factory Ltd., D.B.A. RBI Toys, Inc.

By:

Name:

David Y. K. Yip

Title:

Chief Executive Officer

Date:

February 4, 2005

EXHIBIT A

Sheriff's Star and Logo, "A Tradition of Service"

1.) Sheriff's Star



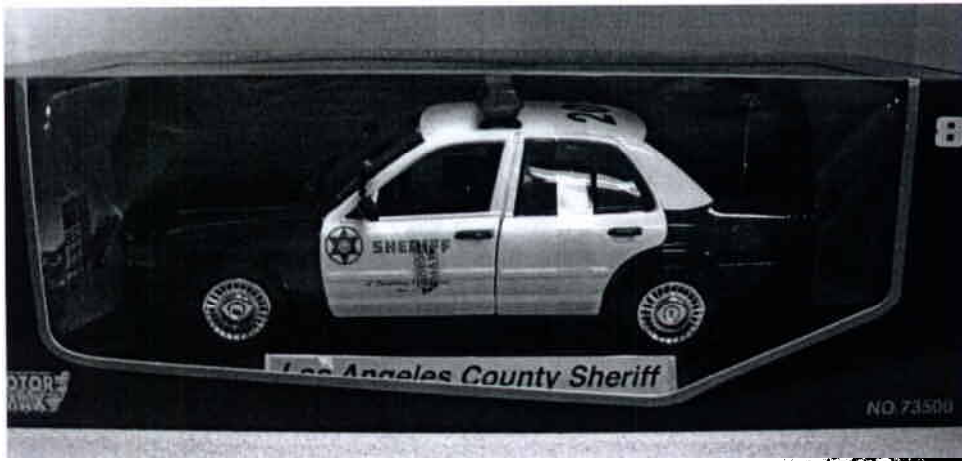
2.) Sheriff's Logo

A Tradition of Service Since 1850

EXHIBIT B

Photos of the Two Cars

1.) 1:18 Car



2.) 1:24 Car



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